ing any public money in the submission of such matter to the vote of the people *Held,* a demurrer to the petition was properly sustained. *Hawke* v. *Smith, Secretary of State* (Ohio, 1919), 126 N. E. 400.

In discussing this general question in 18 MICH. L. REV. 51, it was said that two questions were bound to arise in this connection. "Does the language of Article V of the National Constitution make the matter of ratification or rejection of proposed amendments a function of the *'legislature,'* in the usual sense of that word? This, of course, is a federal question, and until passed on by the United States Supreme Court must be considered as open. The second questions is: Does the state provision for referendum cover the reference of acts of the legislature such as are consummated in ratifying a proposed amendment? This obviously is a local question, and the Supreme Court will not examine into the soundness of the conclusion of the state court. *Davis* v. *Ohio,* 241 U. S. 565." In view of the amendment to the Ohio constitution above quoted, the second question was not involved in the principal case. In the Colorado and Michigan cases cited below, it was held that the state provisions for referendum did not extend to approvals or rejections of proposed amendments. The court concluded that "legislature" in Art. V of the federal Constitution does not mean the legislative *body,* thus agreeing with the Washington court in *State ex rel. Mullen* v. *Howell,* 181 Pac. 920, and disagreeing with the Maine court in *Re Opinion of the Justices,* 107 Atl. 673. The Maine case is approved in *Prior* v. *Noland,* (Colo., 1920) 188 Pac. 729. In the principal case the court felt very strongly the supposed weight of *Davis* v. *Ohio,* 241 U. S. 565 (Wanamaker, J., in concurring opinion considered the decision conclusive), entirely misconceiving what was really involved and decided in that case. See 18 MICH. L. REV. 52, *et seq.,* where the character of the question there before the Supreme Court is pointed out. In *Decher* v. *Secretary of State,* (Mich., Apr. 10, 1920) the court avoided this error. In *Ex parte Dillon,* 262 Fed. 563 (1920), Rudkin, D. J., concluded that the principal case was incorrectly decided, saying: "Had the resolution (of Congress) in this case provided that the amendment should be ratified by the people of the several states by direct vote, such provision would be clearly in derogation of the Constitution and void, and what Congress could not do it is needless to say the several states cannot do, because full power over the matter is conferred upon the former and denied to the latter."

CONSTITUTIONAL LAW—TAXATION—EDUCATIONAL BONUS LAW FOR A PUBLIC PURPOSE.—The Legislature of Wisconsin provided (chapter 5, Laws of 1919, Special Session) for a bonus of thirty dollars per month to soldiers, sailors and nurses who served in the late war with Germany and Austria, while in regular attendance as a student of any of certain designated institutions. This provision is stated to be in lieu of the soldier's bonus provided for in chapter 667 of the Laws of 1919. The benefits of the act extend to those who were residents of Wisconsin at the time of their induction into the service and who, after being discharged, desire to continue their education in any of the public schools and colleges named. The expenses of

this provision are to be defrayed by a special tax on property and a surtax on incomes. The constitutionality of the act is assailed upon the ground that the taxation provided for is for a purpose not public. *Held,* the purpose of the tax is public, despite the abandonment of the volunteer system for raising troops and the resort to compulsory draft. *State ex rel. Atwood* v. *Johnson* (Wis., 1920), 176 N. W. 224.

For a discussion of the constitutionality of this question and the similar question involved in the Soldiers' Bonus Law, see 18 MICH. L. REV. 535, and the cases there noted. See also *State ex rel. State Reclamation Board* v. *Clausen,* (Wash., 1920) 188 Pac. 538.

CONSTITUTIONAL LAW—VALIDITY OF EIGHTEENTH AMENDMENT.—Petitioner was in custody charged with violation of a provision of the National Prohibition Act of October 28, 1919, c. 85, which by the terms thereof was not to be in force until the date when the Eighteenth Amendment should go into effect. The offense charged was alleged to have been committed January 17, 1920. In habeas corpus petitioner claimed release because (1) the Eighteenth Amendment was not in force on date of alleged offense, since the Secretary of State's proclamation was not issued until January 29, 1919, and (2) the amendment was and is no part of the Constitution. *Held,* (1) the amendment became operative when the thirty-sixth state ratified, not when the Secretary of State promulgated same; (2) the amendment is constitutional and effective. *Ex parte Dillon* (D. C., N. D. Cal., 1st Div., 1920), 262 Fed. 563.

In this case Judge Rudkin very shortly disposes of some of the contentions that have been so frequently advanced against the validity of the Prohibition Amendment. As to one phase, see *supra,* note to *Hawke* v. *Smith.* In the principal case it was argued that an "amendment" "implies such an addition or change within the lines of the original instrument as will effect an improvement or better carry out the purpose for which it was framed." Citing *Livermore* v. *Waite,* 102 Cal. 118. The court says the Thirteenth Amendment abolishing slavery would have been invalid on such test, yet it had never been seriously challenged. On the scope of the power of amendment, see the article by George D. Skinner in 18 MICH. L. REV. 213. See also 33 HARV. L. REV. 223; *Ibid,* 659; 90 CENT. L. J. 229. It was further contended in the principal case that the seven-year limitation upon the period during which the proposed amendment might be ratified made the whole submission nugatory. This, too, was rejected. If the thirty-sixth state had voted ratification *after* the seven years had gone by, a really nice question might have arisen. No one would now contend that an illegal condition subsequent or void attempt to cut off an estate granted (see such cases as *Brattle Square Church* v. *Grant,* 3 Gray, 142) would make ineffective the whole grant. Yet that is what the contention here amounts to. Of course, it is unsafe to argue questions of constitutional law and construction on the basis of decisions in such a field as the law of estates, but if the illegal, added provision in the grant of an estate has no effect upon the validity of